

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2092 OF 2017***

Ramchandra Babu Morge	Applicant
Versus	
The State of Maharashtra	Respondent

CRIMINAL BAIL APPLICATION NO. 2594 OF 2017

Hansaben Jagdishbhai Rawal	Applicant
Versus	
The State of Maharashtra	Respondent

Mr.Krishna K. Holambe Patil, for the applicant (in BA No.2092/17)
Mr. Ajay Bhise i/b. Mr. Pushpraj S.Singh for the applicant in BA No.2594 of 2017.
Mrs.S.S.Kauhik,APP, for the State.(in BA No.2092/17)
Mr. S.H.Yadav, APP for the State in BA No.2594/17)

***CORAM : SMT. SADHANA S.JADHAV, J.
DATE : 23rd February, 2018.***

P.C. :

1. Heard. This is an application under section 439 of Cr.P.C.
The applicant in Criminal Bail Application No.2092 of 2017 is arrested on 29.3.2017 and the applicant in Criminal Bail Application No.2594 of 2017 is arrested on 2.4.2017 in Crime No.163 of 2016 registered at Karjat Police

Station, Dist. Raigad on 17.9.2016. The investigation is completed and charge sheet is filed in June 2017 against the applicant for the offences punishable under Sections 363, 370, 376 (2)(i)(m)(n), 323, 324, 341 read with Section 34 of the Indian Penal Code and under Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012.

2. It is a case of the prosecution that on 9.9.2016, Manju Mahavir Singh Kusva resident of Karjat lodged a report at the police station alleging therein that on that day her minor daughter Ms.`X' had left the house for watching Ganesh festival decoration. She did not return home. Her father had been to Jammu & Kashmir at that time since, he was working as a caterer with Central Railways. Searched for her at all places especially with the relatives. She was not found. Finally, on 17.9.2016, an offence was registered under Section 363 of IPC against unknown persons. The missing girl `X' had reached her house.

3. On 11.3.2017, the missing girl was brought to Karjat Police Station by her neighbour. She found her house locked. Upon enquiry with the neighbours, they had informed that her parents have gone to Jammu & Kashmir to their native place as her elder sister was to get married. The neighbours were aware that the girl was missing since September 2016 and

she had brought her to Karjat Police Station. Karjat Police had informed her parents. Thereafter, her parents had come to the police station.

4. Upon enquiry with the minor girl, she had disclosed that on 9.9.2016, she was not willing to go to her native place along with mother and elder sister. She was annoyed with her parents and therefore had left the house. She had reached Nerul Railway Station where she met Mai, who was also residing as her neighbour some time ago. Since she was acquainted with her, she left in her company. Said Mai was aware that there was intermittent quarrel in the house. Mai had taken her to her own house. On the very next day, the husband of Mai i.e. Manoj had informed the victim that it is to be his daughter's birthday. He forced her to have alcohol. Since she had her meals, but she was vomiting. She was not keeping well. After some time, Manoj had called one person. The victim has given his description as a fat man with black complexion. He had paid some amount to Manoj. He had forced himself upon her, sexually abused her and then ravished her. Thereafter, he had left the house. She was not keeping well, but she was not taken to the hospital by Manoj and since they apprehended that she would flee from their custody. The applicant in Criminal Application No.2092 of 2017 has been identified as the man who had

ravished the victim in the house of Manoj and Sheetal Raut.

5. The learned counsel for the applicant submits that the applicant was subjected to test identification parade. According to the investigating agency, the applicant has been identified by the victim at the test identification parade. The learned counsel for the applicant submits that the test identification parade was not held in accordance with rules laid down in the Criminal Manual and hence the same cannot be relied upon.

6. Perused the memorandum of test identification parade. It is true that although the applicant was aged about more than 42 years old, dummies who were placed with the applicant at the test identification parade were aged about 27, 20, 25, etc. It is commonly seen that the investigating agency do not follow the mandatory rules laid down in the Criminal Manual making the whole exercise of test identification parade a futile exercise. It is commonly seen that in most of the cases, the Courts are constrained to acquit a person only on the ground that the test identification parade is not held in accordance with law. In any case, this Court cannot be oblivious of the fact that material in the form of test identification parade is only a corroborative piece of evidence and identification in the Court would be a substantial piece of evidence. But that does not mean that the

investigating agency is not bound to follow the mandate of the Criminal Manual. In a case like the present one where all the accused had indulged into human trafficking by driving the girl from one place to another and selling her and pushing her into prostitution can be forgiven. In fact, a man aged about 42 years old could easily identify that the victim was hardly 14 years old.

7. The learned counsel submit that the applicant, at the most, would be a customer. The applicant was, in all probabilities, given an impression that the girl has volunteered to work as a prostitute and, therefore, he cannot be blamed for the act committed by him. The statement of the victim would clearly indicate that she was initially forced to have alcohol and thereafter although she resisted to the best of her capacity. She was assaulted and sexually abused by the applicant. In the circumstances, the applicant would not be entitled to grant of bail. The application of the present applicant being sans merits, stands rejected.

Criminal Bail Application No.2594 of 2017

8. The victim girl has given her journey from one place to

another. It appears that she had resided with Sheetal Raut for a period of 10 days. Thereafter, Sheetal had called the accused Sushila Babu Koli, resident of Karjat. Sushila happens to be the cousin of Sheetal Raut. That the victim girl was taken to Ahmedabad by Sheetal, Sushila and Manoj. The victim girl had recognised Sushila. She was also residing in the close proximity of her house at Sant Rohidas Nagar, Karjet. Sushila had taken the victim girl to her house. The victim had enquired with Sushila as to why she had brought her to her house. The victim was made to stay in her house about 2-0 days and thereafter Sushila had called upon Hansaben i.e. applicant in Criminal Application No.2594 of 2017. Hansaben and Sushila had assaulted the victim and taken her to some village. She stayed there for 5 days. Thereafter, Hansaben had called upon one man called Govind. She had informed him that she has a girl. They had been moving from one place to another. They met the other accused i.e. Mehul. Thereafter, Hansaben had obtained about Rs.80,000/- as a cost for transferring the custody of the victim to Govind. The victim girl was assaulted by Govind and caused burn injuries. He had administered some medicines to her. It is alleged that Hansaben and Sushila had thereafter taken her to Village Vijapur where they had obtained Rs.60,000/- from a customer. She was given into the

custody of Dipak who used to ravish her everyday. Dipak had disclosed to the victim that he had paid an amount of Rs.60,000/- to Sushila and Hansaben. It is unfortunate that a girl of 18 years old was made a victim of human trafficking by the applicants.

9. The learned counsel for the applicant submits that the only role attributed to the applicant is that she had initially given her into the custody of Govind, then in the custody of Mehul. The learned counsel submits that in fact the applicant wanted the victim to get married to Mehul. This could hardly be a case of marriage. It is clear that the victim was being sold from one place to another.

10. Taking into consideration the trauma the minor girl had to go through, this Court is of the opinion that the applicant does not deserve to be enlarged on bail. The application being sans merit, stands rejected.

11. It is made clear that the above observations are restricted to an application under Section 439 of Cr.P.C. and the learned trial Court shall not be influenced by the same at the time of trial.

(SMT. SADHANA S.JADHAV, J.)